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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,612	12/15/2000	Peter J. Costa	MDS-020	2198

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TESTA, HURWITZ & THIBEAULT, LLP
HIGH STREET TOWER
125 HIGH STREET
BOSTON, MA 02110

EXAMINER

NGHIEM, MICHAEL P

ART UNIT PAPER NUMBER

2863

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/738,612

Applicant(s)

COSTA ET. AL.

Examiner

Michael P Nghiem

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,9-11 and 19 is/are rejected.
- 7) ☒ Claim(s) 2-8,12-18,20 and 21 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on October 9, 2001 and copies of the references are not located in the file. Thus, they have not been considered as to the merits.

Specification

2. The disclosure is objected to because of the following informalities:

- The application numbers are not specified (page 1, 1st paragraph).
- “.” (page 13, line 20) should be -- . --.

Appropriate correction is required.

Claim Objections

3. Claims 1, 2, and 9-12 are objected to because of the following informalities:

- claims 1, 2, 11, after “comprising” (line 1), “,” should be -- : --.
- claims 9, 10, after “comprising” (line 1), should delete “,”.
- claim 12, after “to” (line 2), “,” should be -- : --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 9-11, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Nordstrom et al. (US 6,427,082).

Nordstrom et al. discloses all the claimed features of the invention including:

- a method of performing spectral analysis (Fig. 1), said method comprising:
 - obtaining an optical spectrum (column 4, lines 34-46), and normalizing said optical spectrum by application of non-uniform segment normalization (column 7, lines 6-22);
 - obtaining said spectrum from a specimen of human cervical tissue (Abstract, lines 1-2, Fig. 1);
 - determining a disease status of said test specimen by analyzing said optical spectrum subsequent to said normalizing (column 2, lines 13-17);

Art Unit: 2863

- a system (Fig. 1) for performing spectral analysis comprising:
 - a spectrographic device (1), adapted to obtain an optical spectrum from a test specimen (5),
 - a processor (12) adapted to normalize said optical spectrum by application of non-uniform segment normalization (Fig. 8);
 - said spectrographic device is further adapted to obtain said optical spectrum from a specimen of human cervical tissue (Abstract, lines 1, 2, Fig. 1).

Allowable Subject Matter

4. Claims 2-8, 12-18, 20, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Reasons For Allowance

5. The combination or method as claimed wherein summing said areas for each of said segments to determine a normalization factor and dividing at least one said associated amplitude for one of said wavelengths included in said segments by said normalization factor is not disclosed, suggested, or made obvious by the prior art of record.

Art Unit: 2863

Conclusion

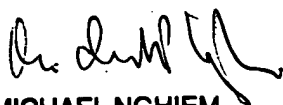
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jung et al. (US 6,246,471) discloses an apparatus for measuring optical characteristics of an object (Fig. 1).

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (703) 306-3445. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (703) 308-3126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7724 for regular communications and (703) 308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



**MICHAEL NGHIEM
PRIMARY EXAMINER**

Michael Nghiem

April 10, 2003